

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on February 20, 2003 at 3:30 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Eileen J. Carney, Vice Chairman (D)
Rep. Scott Mendenhall, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Rod Bitney (R)
Rep. Larry Cyr (D)
Rep. Ronald Devlin (R)
Rep. Gary Forrester (D)
Rep. Ray Hawk (R)
Rep. Hal Jacobson (D)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Penny Morgan (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Linda Keim, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The tape stamp for these minutes appears at the beginning of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: HB 528, HB 535, HB 583, HB 596,
2/13/2003
Executive Action: HB 441, HB 512, HB 357, HB 528, HB
583, HB 596

HEARING ON HB 535

{Tape: 1; Side: A; Approx. Time Counter: 0 - 21.9}

Sponsor: REP. HAL JACOBSON, HD 54, HELENA

Opening Statement by Sponsor:

REP. JACOBSON said that HB 535 is a local option bill that allows County Commissioners the discretion to assess up to one-mill to pay for a Study Commission if the voters choose to make a change. This was previously done in 1984 and 1994 and allows the voters to decide if they are happy with their current local government or if they want to have a study commission look at the options. Voters have the right to decide which option they want to use.

Proponents' Testimony:

Harold Blattie, Montana Association of Counties, said that this bill has gone through MACo's Board of Directors. He explained that the Montana Constitution requires local governments to review their form of government every ten years in conjunction with the primary election. If the voters decide to have a Study Commission, the commissioners are elected at the General Election and charged to conduct a case study over the next biennium with assistance from Montana State University. Currently, money would have to come from existing revenues. This bill would allow a levy of up to one-mill each year for the Study Commission.

Chuck Egan, County Commissioner, Stillwater County, said that he supports HB 535 which will fund the work of local government Study Commissions. He said that Study Commissions have been very helpful. With HB 535, local governments won't have to look for funding from the library or somewhere else.

Ronda Carpenter, representing Cascade County Commissioners, said that local government Study Commissions and local government don't always see eye to eye. Study Commissions often are considering changing the form of local government, which would put the city commissioners or city managers in a different job or eliminate their jobs entirely. It is very important that Study Commission money is not subject to the budget of the government that they are studying, because the government can cut their study by cutting off their funding.

Daniel Watson, Rosebud County Commissioner, and Fiscal Officer MACo, said that he has been involved in two Study Commissions and has some background in the process. The levy is permissive.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. OLSON asked why the county wouldn't want to just vote this levy. **Harold Blattie** said that the voters are actually voting it when they vote to approve their form of government.

REP. OLSON asked how many mills are currently milled outside of the cap. **Harold Blattie** said that it depends on the unit of government. Section 15-10-420 lists items that are currently exempted from mill levy limitation. The current session has taken action regarding judgment levies.

REP. BECKER asked if language to the voters asking whether they do or do not want a study should include the fact that voters will be assessed a one-mill levy. **Harold Blattie** said that the bill as drafted does not include that provision on the ballot. He said that he would personally be a proponent to adding that.

CHAIRMAN NOENNIG asked Mr. Blattie if he just said that he would be a proponent of allowing the language of the ballot to local government form to include the request that the levy be approved. **Mr. Blattie** said that was his personal preference. **CHAIRMAN NOENNIG** asked if the levy would be to fund the Study Commission solely. **Mr. Blattie** said that was correct. **CHAIRMAN NOENNIG** asked how much that would entail. **Mr. Blattie** said that one-mill statewide would generate approximately \$1.7 million. He said that Stillwater County levied one-half of one-mill for the Study Commission in each year of the biennium. Current statute also allows that at the end of the Study Commission's work; any remaining funds will be transferred to the General Fund of the governing body.

CHAIRMAN NOENNIG asked what the typical cost associated with a Study Commission would be. **Harold Blattie** said that it depends on the direction that the Study Commissioners choose to take.

CHAIRMAN NOENNIG asked Daniel Watson how much a Study Commission costs. **Mr. Watson** said that he had seen numbers as high as the tens of thousands. The City of Forsythe spent about \$12,000 over the biennium. The makeup of the commission and the issues have to be considered. Commissioners have the ability to bring in outside people to provide testimony or information and they work with the local government center in Bozeman. There are administrative costs, mileage, training, and workshops involved.

CHAIRMAN NOENNIG asked Tim Burton how much a Study Commission costs. **Tim Burton** stated that in 1994 both Lewis and Clark County and the City of Helena chose to study their forms of government. Lewis and Clark County levied the allowable mill, raising \$80,000. The City of Helena chose not to levy the Study Commission itself. He said that the actual dollars raised depends upon the size of the jurisdiction and the taxable value. Mill values today are different than they were ten years ago.

CHAIRMAN NOENNIG asked if the election can include the voter levy without the bill. He asked, "If the decision of the committee were that was the way to do it, would that require an amendment, or do we need the bill at all?" **Tim Burton** said that further definition from this Committee and the Legislature itself would allow the Clerk and Recorder and election officials to interpret that question similarly across the state.

Harold Blattie said that he thought the required language was in Title 7, Part 1 and that he would check that out.

Closing by Sponsor:

REP. JACOBSON said that this could be a useful financial tool for local governments to use to deal with local government reviews. The suggestion of including "voting the mill levy," and Mr. Blattie's initial approval has merit also. He said that he would carry the amendment addressing that change.

HEARING ON HB 528

{Tape: 1; Side: A; Approx. Time Counter: 22.2 - 30}

Sponsor: **REP. HOLLY RASER, HD 70, MISSOULA**

Opening Statement by Sponsor:

REP. RASER said that HB 528 revises the notification process involved in creating a Rural Improvement District. The concern was that even though a majority of property owners did not want a project, they could not stop the project. She provided a map, a copy of the specific Montana Code, and Proponent's letters.

EXHIBIT (loh38a01)

{Tape: 1; Side: B; Approx. Time Counter: 0 - 18}

REP. RASER stated that the backbone of a sewer is only part of a project, and the connection to the houses is just as important. Another concern is that information and costs are being given in a piecemeal fashion. The bill stipulates that if the proposed project is related-to or part-of a larger project, notice must be

given about the scope of the project, the approximate cost, and other impacts on property rights. For example, the right to protest would be impacted if a waiver has been signed. **REP.**

RASER said that the bill provides three ways to protest, and stipulates that if the improvements are the construction of sanitary sewers, that any protests may be overruled for public health and safety.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN referred to Page 3 and asked what happens if there is conflict. For example, a landowner with 51 percent and numerous people that own 49 percent. If the landowner wants to hold up the process, and everyone else wants it, what happens? **REP.**

RASER said that any one of those can protest. A protest is valid if either the people that are paying more than half the cost protest, or if more than half of the people protest it. Both conditions do not have to be met.

REP. MORGAN commented that just because a protest can be made does not mean that the protest will stop the project. **REP. RASER** said that in the case of a sewer, and if the sewer is proven necessary for water quality, the project cannot be protested.

REP. MORGAN asked if an actual protest will stop the project.

REP. RASER said that if there is a valid protest, no proceedings can take place for a certain length of time.

REP. BECKER asked if there was an earlier bill that was related to sewer problems that said 75 percent of the people must sign a protest. **REP. RASER** explained that an earlier bill covered a Special Improvement District (SID) in the city. A protest for the SID required 75 percent, then the city council could override the 75 percent and prevent the project.

REP. BECKER asked if a Rural Improvement District has the right to protest under current law. **REP. RASER** stated that the protest has to be made by people paying more than half of the project.

CHAIRMAN NOENNIG asked if there was a problem with what the definition of a larger project is, how far it extends into the future, how many expansions there will be, etc. He asked, "Were

those things addressed?" **REP. RASER** stated that a lawyer was consulted. The lawyer advised that Environmental Impact Statements (EIS) are written the same way. The intention of the bill is to address problems that arose in the past. Previously, many people had numerous small projects that did not require EIS, instead of having one large project that did require EIS. She explained that in the case of a sewer, the backbone does nothing without the connection systems, and it is not the intention to try to anticipate future sewer development that might extend the backbone further.

CHAIRMAN NOENNIG referred to Page 3, Lines 20-26 which has been narrowed down to certain circumstances under which the protest can be overruled. He asked, "Is there such a thing as an improvement being ordered by the Department of Environmental Quality? If something is required to meet certain environmental standards, is that an order?" **REP. RASER** said that yes, that was what she understood.

CHAIRMAN NOENNIG said that the word "documentation" on Line 24 is vague. He added that if there were a circumstance where improvements would help meet the standard, and other improvements would completely meet the standard, then this bill has been unnecessarily restricted. **REP. RASER** stated that is a good point, because the bill does not say the level at which the improvement must occur.

Closing by Sponsor:

REP. RASER closed by thanking the Committee for a good hearing.

HEARING ON HB 583

{Tape: 1; Side: B; Approx. Time Counter: 22 - 30}

Sponsor: **REP. ROY BROWN, HD 14, BILLINGS**

Opening Statement by Sponsor:

REP. BROWN said that HB 583 allows counties and municipalities to establish a Transportation Improvement Authority (TIA). He explained that the purpose of a TIA is to build, modify, or improve transportation within its jurisdiction. He said that this bill can be used for any community that wants local control over their transportation challenges. He compared the TIA to an Economic Development Authority (EDA) that allows the Authority to raise federal funds or grants, combine federal with local funds, and then combine those dollars with private funds.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN asked how HB 583 would be funded. **REP. BROWN** said that it is up to the local governments to find their own funding.

REP. MORGAN asked if the bill states that there is no funding in it. **REP. BROWN** said that the bill only lists places where the funding would come from.

REP. BECKER said that Yellowstone County's City and County Planning Department has an area set aside for transportation planning. She asked, "Would this take the place of that?" **REP. BROWN** said that he did not see the TIA taking the place of the Planning Board. He said that the Planning Board would be able to work on a project in conjunction with a transportation authority. He provided a copy of an email from Romona Mattix, Planning Director, Billings that speaks in favor of this bill.

EXHIBIT (loh38a02)

{Tape: 2; Side: A; Approx. Time Counter: 0 - 8}

REP. MENDENHALL asked if a TIA is currently prohibited by law.

REP. BROWN stated that the Code Commissioner said there must be a special TIA, and that current statutes did not seem to allow this because private dollars are also involved.

REP. MENDENHALL asked if there is any federal money that funds a TIA that this would give an advantage to. **REP. BROWN** said that there are transportation projects that federal dollars go toward. He said that the Billings project is on the list to receive a \$100,000 appropriation to look into a study concerning the railroad crossings that divide the city.

REP. MENDENHALL asked if the makeup of the TIA is patterned after state laws or similar boards and where the language concerning the makeup of the authority beginning on Line 16 of Page 1 came from. **REP. BROWN** said that language came from the Bill Drafter.

REP. LASLOVICH asked if the Department of Transportation would have any problems with a TIA being established.

REP. BROWN commented that the Department of Transportation is concerned that this adds another layer of jurisdiction and had listed their concerns in a letter to him. He said that he was surprised that no one testified about the bill.

REP. LASLOVICH asked if there would be any objection to having Jim Currie speak. **CHAIRMAN NOENNIG** confirmed the Committee's approval.

Jim Currie, Department of Transportation (DOT), said that they are not taking a position on this bill. He said that there is some concern in the Department that this would be another area to work with when planning projects. He commented that if the bill passes, DOT will work with these groups, and if the bill does not pass, DOT will continue to work with local governments as DOT currently does. Billings, Missoula and Great Falls currently have Metropolitan Planning Offices (MPO) because their population is over 50,000. Mr. Currie said that those three cities receive Federal Transportation Planning funds. Many other cities have Transportation Advisory Committees (TAC), and DOT staff will work with all those committees also.

REP. LASLOVICH asked if the authority given to the TIA would present problems for a local government. **REP. BROWN** said that the bill brings counties and cities and the business community together for a common cause and no conflict was evident.

Closing by Sponsor:

REP. BROWN said that HB 583 gives more local control for important community issues and asked for a DO PASS.

HEARING ON HB 596

{Tape: 2; Side: A; Approx. Time Counter: 8 - 22}

Sponsor: **REP. JIM KEANE, HD 36, BUTTE**

Opening Statement by Sponsor:

REP. KEANE said that HB 596 exempts a local economic development mill levy from having a cap and establishes a maximum levy that may be imposed for local economic development.

Proponents' Testimony:

Betty Curry representing Beartooth Resource Conservation and Development, Joliet, read her written testimony.

EXHIBIT (loh38a03)

Harold Blattie, Montana Association of Counties (MACo), stated that MACo supports HB 596 because the bill provides local people with the flexibility to make local determinations as to what is best for their community.

Ronda Carpenter, representing Cascade County Commissioners, said that the Commissioners also support HB 596. Many parts of the bill can be used to help the Great Falls Development Authority attract businesses to Cascade County.

Gary Amestoy, representing Richland Economic Development Corporation, said that this bill gives local development corporations another helpful tool to use in promoting economic development. He asked for a DO PASS.

Opponents' Testimony:

Nancy Schlepp, representing Montana Farm Bureau, said that they oppose HB 596. She said that mills should go to a vote of the people. She stated that county commissioners should convince the people that the mills are necessary. Mills all add up, and the taxpayers should have a say in how their money is spent.

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MENDENHALL referred to Page 2, Line 13 and asked about the part that was stricken. **Harold Blattie** said that the stricken language is a cleanup of statutory language that refers to lakefront properties that had a land-value cap placed on them that had expired.

REP. MENDENHALL said that economic development benefits everyone in a community. He asked, "With a mill levy, the more property you own, the more you pay; but what about the people that don't own any property?" **Harold Blattie** said that those people would not be contributing to this effort.

REP. MENDENHALL asked if nonproperty owners would benefit from economic development. **Harold Blattie** affirmed, and said that all residents help contribute to the tax base, sometimes indirectly, through rent, etc.

REP. MENDENHALL said that currently voters can approve a recreation district by either a mill levy or a flat fee per household. The difference is that a mill levy catches part of the people, as opposed to a flat fee per household where everyone that benefits pays. He asked if that might be a potential

amendment. **REP. KEANE** said that renters would be involved with a flat fee per household and that collecting from every household would involve a complicated door-to-door process. The mill levy works because it can be added onto a simple process. He said that it works well in both Butte and Miles City.

CHAIRMAN NOENNIG asked if this is a voted levy and why the levy is subject to a cap. **REP. KEANE** said that it is a voted levy and that not all counties have a cap.

REP. OLSON stated that this levy is permissive. **CHAIRMAN NOENNIG** quoted Page 3, Line 15, "The governing body may approve the mill levy by a vote of the governing body." He said that clarified as to whether or not it was the public. **REP. KEANE** said that the commissioners can vote the levy, not the public.

REP. BECKER asked: "If a community is not at its cap, can the governing body currently do a mill levy like this without a vote?" **Harold Blattie** said "Yes, if a governing body is not under the maximum allowable mill levy, under 15-10-420 they can levy the mills. If they have that additional authority, they could levy for this purpose."

Closing by Sponsor:

REP. KEANE said that this bill allows the governing body to have an extra one mill to use for economic development.

EXECUTIVE ACTION ON HB 441

{Tape: 2; Side: A; Approx. Time Counter: 25.8 - 30}

Motion: **REP. CYR** moved that **HB 441 DO PASS.**

Motion: **REP. CYR** moved that **HB 441 BE AMENDED.**

Discussion:

REP. CYR explained that this amendment allows county treasurers to accept partial-payments of centrally-assessed property taxes. **EXHIBIT (loh38a04)**

Legislative Staffer Connie Erickson said that because county treasurers will be directed to accept partial-payments of taxes, this was done in Title 76, in the land-use area. To make this instruction clear, language was also added to Title 15, the actual code section.

Vote: **Motion carried unanimously, 16-0.**

Motion/Vote: REP. CYR moved that HB 441 DO PASS AS AMENDED.
Motion carried unanimously, 16-0.

The bill will be placed on the Consent Calendar.

EXECUTIVE ACTION ON HB 512

{Tape: 2; Side: B; Approx. Time Counter: 0 - 9}

Motion: REP. MENDENHALL moved that HB 512 DO PASS.

Motion: REP. MORGAN moved that HB 512 BE AMENDED.
EXHIBIT(loh38a05)

Discussion:

Connie Erickson explained that the amendment clarifies what area is being added to the planning and zoning district.

REP. BITNEY asked for the definition of a "freeholder." **Connie Erickson** said that the definition of "freeholder" in the dictionary is someone that holds land for life, equating to a land-owner. **CHAIRMAN NOENNIG** said that "freeholder" is an archaic term used to designate the types of interest that people held in property, as distinguished from lessees or tenants.

Vote: Motion carried unanimously.

Motion: REP. OLSON moved that HB 512 DO PASS AS AMENDED.

Motion: REP. MAEDJE moved that HB 512 BE AMENDED.
EXHIBIT(loh38a06)

Discussion:

Connie Erickson explained that the amendment requires that the area to be added to the planning and zoning district must be adjacent to the current district.

Vote: Motion carried unanimously.

Motion/Vote: REP. OLSON moved that HB 512 DO PASS AS AMENDED.
Motion carried unanimously, 16-0.

The bill will be placed on the Consent Calendar.

EXECUTIVE ACTION ON HB 258

{Tape: 2; Side: B; Approx. Time Counter: 9 - 28.7}

REP. MAEDJE stated that he wanted to take HB 258 off the table to amend the bill.

Motion/Vote: **REP. MAEDJE** moved **HB 258 BE TAKEN OFF THE TABLE**. Motion carried 9-6 with **REPS. CARNEY, CYR, LAWSON, MENDENHALL, RASER** and **NOENNIG** voting no, on a roll call vote.

Motion: **REP. MAEDJE** moved that **HB 258 DO PASS**.

Motion: **REP. MAEDJE** moved that **HB 258 BE AMENDED**.

EXHIBIT (loh38a07)

Discussion:

REP. MAEDJE said that the amendment grandfathers in all cities that already have smoking ordinances and would only apply to future smoking ordinances.

Dr. Robert Shepard's written testimony opposing HB 258 was presented to the Committee prior to the meeting.

EXHIBIT (loh38a08)

REP. CARNEY said that she opposed this amendment. She said that it is a question of local control, and if other cites want to have this kind of an ordinance they should have the ability to do it. This does not preclude the fact that other cities might want to do this in the future, and they should have the option.

REP. CYR had a message from the Public Health Officer in Butte opposing the bill. The message says that the problem with this amendment is that it is only a Helena exclusion. The amendment would kill the process in Butte that has taken over 15 months.

REP. RASER said that she also opposed the amendment. She said that there are remedies; for example, the businesses of Helena that are concerned can have the people of Helena vote and decide whether they want to exclude bars. In the future, other communities can do the same thing. She stated that the Legislature has no business overturning local control, local rule, and things that have been voted on by the people.

REP. LASLOVICH asked if the language has been approved by the Code Commissioner. **Connie Erickson** said that there have been different interpretations from the Chief Legal Counsel and several lawyers who are legislators as to whether this amendment

would create a special class for Helena. There are conflicting opinions over whether there could be an equal protection problem because a suspect class is being created with no rational basis for creation. Other legal interpretations say that equal protection would not be an issue in this case. Ms. Erickson explained that a Severability Clause was added because the bill has two parts, The Tobacco Cessation Program, and Smoking Ordinances. If this bill passed and was challenged, the Severability Clause would sever the bill so that the part addressing Tobacco Cessation would not be impaired by a lawsuit filed against the Ordinance part.

CHAIRMAN NOENNIG explained that if it is an equal protection violation, the Severability Clause would come into play.

REP. LASLOVICH said that the issue has become so contentious and out-of-control that he would hate to bring it to the House floor and burden 84 other Legislators with this issue. He said that he is in a difficult position because he previously said that he would support a grandfather clause. He explained that if the bill passes out of Committee and goes to the House floor, someone else may introduce an amendment to strike this language. He said that even if that action were opposed, that the lobbyists are very powerful, and anything could happen. He said that he would like to prevent that and would vote against the bill.

REP. MENDENHALL asked if the full effect of the ban would be felt if the grandfather clause were stricken because of a legal challenge. He asked if this would have the effect of doing away with Helena's smoking ban? **Connie Erickson** said the bill is currently sitting on the table with the amendments on it. She stated that the bill would impact the Helena ban and possibly alter the other cities without the amendment that is being discussed.

CHAIRMAN NOENNIG commented that, "If the grandfather clause is stricken, we have the bill as amended, and we discussed the exceptions for bars and restaurants at length." He said that would apply to everyone including Helena.

REP. MORGAN said that Missoula, Great Falls and Bozeman had smoking bans in place. "Why aren't these three cities being included in conversation about Helena's Ordinance?" **Connie Erickson** said that those three city's bans are different. She said that Missoula, Great Falls and Bozeman have exempted bars and taverns, and they would also be grandfathered in. Helena has the only ordinance that is a total ban.

REP. MAEDJE said that Legislators have a responsibility to tackle constituent issues and do the right thing, even though a lot of email is received against a bill. He said that the wise thing to do would be to put this issue on the House floor so that a tangible discussion can be held and solve the issue.

Connie Erickson explained that this amendment grandfathers in all ordinances in Great Falls, Bozeman, Missoula and Helena that were passed on or before 10/1/2003. The Severability Clause is there in case of a legal challenge.

Vote: Motion carried 9-7, with **REPS. CYR, JACOBSON, LASLOVICH, LAWSON, RASER, CARNEY, and NOENNIG** voting no, on a roll call vote.

Motion: **REP. MAEDJE** moved that **HB 258 DO PASS AS AMENDED.**

Discussion:

REP. MENDENHALL said that he would resist the bill. This is the kind of issue that it makes sense for local governments to be able to vote on. Smoking and second-hand smoke are well-proven health issues, and voters can make their own decisions. When local citizens enact a ban, they need to take the consequences of their actions. If a city has an ordinance that is taken to court and there is a takings issue, the local voters need to be responsible for the consequences.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 11.8}

REP. MORGAN said that she agreed with **REP. MENDENHALL** that this is a private property issue. Business owners will take the cities to court and even if business owners win, they won't recover their court costs. She said that she cannot support government telling a business owner what they can or can't do, as long as they are not performing an illegal activity.

REP. DEVLIN felt that some rules regarding the licenses should be handled at the state level. He commented that he has evidence from local Helena establishments of a 30-40% economic impact on their businesses. Liquor licenses which are a piece of property have been devalued an average of \$100,000 per license. Lending institutions have called people in to refinance their loans because the licenses were used as collateral.

REP. DEVLIN said these things would not have happened prior to HB 124, because the local impact would have been felt in the jurisdiction that imposed these ordinances, and the loss of revenue from the gaming industry would have been devastating. He

said that the state has a financial interest in liquor licenses. The license is granted by the state to a private business that is open to the public. He said that private businesses should meet the standards of the Clean Indoor Air Act and they should not be subjected to any laws that are stronger than that. He said that if a local jurisdiction can usurp this from the state and be made whole by tax revenues which are no longer there, it is very wrong. He encouraged a DO PASS as this is a matter that should be handled at the state level.

REP. CARNEY said that if people working in a mine were forced to breathe filthy air, the state would have a right to say, "You cannot force your workers to breathe that filthy air just to have a job." She said that devaluing property is nothing compared to devaluing people's health and people's lives. A city has a right to say that a business will not devalue a person's life.

REP. CYR said that it does not make sense that strip-tease places can be banned, while cities are not allowed to have smoking in bars. "Where is the (tape inaudible) issue there?"

CHAIRMAN NOENNIG reminded the Committee that all the amendments that were put on HB 258 are still there.

Vote: Motion failed 8-8, with REPS. BECKER, BITNEY, DEVLIN, FORRESTER, HAWK, MAEDJE, MORGAN, and OLSON voting yes, on a roll call vote.

CHAIRMAN NOENNIG stated a request to the Committee that HB 258 be disposed of so that the bill would no longer be on the docket.

Motion/Vote: REP. LAWSON moved that HB 258 BE TABLED. Motion carried 12-4 with REPS. DEVLIN, HAWK, MAEDJE, and OLSON voting no, on a roll call vote.

EXECUTIVE ACTION ON HB 357

{Tape: 3; Side: A; Approx. Time Counter: 11.8 - 30}

REP. MAEDJE said that he wanted to take HB 357 off the table for the purposes of amending the bill.

EXHIBIT (loh38a09)

Motion/Vote: REP. MAEDJE moved to take HB 357 off the table. Motion carried 10-5 with REPS. DEVLIN, HAWK, MENDENHALL, RASER, and OLSON voting no, on a roll call vote.

Motion: REP. MAEDJE moved that HB 357 DO PASS.

Motion: REP. MAEDJE moved that HB 357 BE AMENDED.

Discussion:

REP. MAEDJE said that the amendment (Exhibit 9) will allow a historical architect to be hired and put on contract to make an assessment of a courthouse for the purposes of restoration.

REP. RASER asked if this will cost money. Connie Erickson said that the Fiscal Note is for \$72,000, and the amendment states that the contract may not exceed that amount.

REP. RASER said that this is a good project, but the money is needed elsewhere this Session.

REP. MORGAN said that she agreed with REP. RASER, but with old buildings there is a timing issue. She said that she would support the bill because, "If the buildings aren't taken care of, the buildings won't be around to be preserved."

Vote: Motion passed 10-5, with REPS. DEVLIN, HAWK, MENDENHALL, OLSON, and RASER voting no, on a voice vote.

Motion: REP. MAEDJE moved that HB 357 DO PASS AS AMENDED.

Discussion:

REP. BECKER commented that previously it appeared there was the potential to get outside funds to pay for restoration.

CHAIRMAN NOENNIG said that the sponsor of the bill would speak to that issue if there were no objections from the Committee.

REP. HARRIS explained the bill. At the request of the county, a Historical Architect would make the assessment. He said that the assessment information would go back to the Historical Society for grant writing. A grant application would go to the federal government and private sector foundations. He said that money is available. The idea is that the \$72,000 would be leveraged into federal and private sector grants for the actual work.

REP. BECKER asked if the Historical Architect needs to be paid to start the ball rolling. REP. HARRIS said, "Yes, on a contract basis." He explained that grant applications are complex, and the people who are handing out "free money" want to know that the job is going to be done and that the job is important, etc. He said that "the pump has to be primed to make this happen."

REP. OLSON asked what prohibits counties from contracting on their own to get this done. He expressed concern that, "The estimate was \$5,000 per county, but appears to be first come, first served, and the first county might get \$50,000." He said that if counties contracted on their own, the \$72,000 could be used elsewhere in the General Fund.

REP. HARRIS said that the Historical Society would not allow all the money to be spent in one place. The Historical Society has a good idea of what the assessment involves. He said that nothing prohibits them from doing it, but rural counties don't know how to put together a grant application and don't have the historical architectural expertise. He commented that these buildings are resources that are being lost and some are in bad shape.

REP. OLSON said that individually the counties may not have the expertise, but there are other organizations that could do that for them, such as Resource Conservation and Development (RC&D).

REP. HARRIS said that Gallatin County accomplished their restoration along the lines **REP. OLSON** suggested. He said that restoration was expensive, and there was no in-house expertise in Gallatin County. **REP. HARRIS** said that Gallatin County would have welcomed the opportunity to get expertise from the Historical Architect and the Historical Society.

REP. OLSON asked why the Historical Society doesn't just fund this project with existing funds. **REP. HARRIS** stated that the Historical Society does not have any existing funds.

REP. OLSON asked if the bill would leave room for some prioritization of programs like other agencies are being asked to do. **REP. HARRIS** said that the grant writing portion of this task basically says just do it. He said that prioritization would be necessary, but that money is not available for an Historical Architect.

REP. DEVLIN spoke against HB 357 and said that counties can do restorations on their own. He stated that instead of having a Historical Architect on staff at the Historical Society, that a list of Historical Architects should be kept for counties that inquire. He said that grant writing ability is already available and that counties can handle the details themselves.

REP. CYR asked **CHAIRMAN NOENNIG** if **REP. HARRIS** could comment on **REP. DEVLIN**'s remarks. **CHAIRMAN NOENNIG** said there was no objection.

REP. HARRIS explained that the Historical Architect would not be on the staff. He said that several Historical Architects may be contracted to go out on an as-requested basis.

CHAIRMAN NOENNIG said that his understanding was that estimated funds needed would cover grant writing services as well as potentially an architect. He said that he was concerned that the amendment now requires that an architect be used, at a cost of up to \$72,000. He stated that eliminates the possibility of using any money for a grant writer, and commented that this bill has to be funded by HB 2 or it won't go anywhere. **REP. HARRIS** said that the bill tells the Historical Society to handle the grant writing component of this task with existing funds. He said that he was trying to get funds in HB 2 to provide to the Historical Society, but that was not an immediate question for this Committee.

Vote: Motion passed 11-5 with REPS. DEVLIN, HAWK, OLSON, RASER, and MENDENHALL voting no, on a roll call vote.

EXECUTIVE ACTION ON HB 528

{Tape: 3; Side: A; Approx. Time Counter: 28.8 - 31}

Motion: REP. CARNEY moved that HB 528 DO PASS.

Substitute Motion/Vote: REP. OLSON made a SUBSTITUTE MOTION that HB 528 BE TABLED. Substitute motion carried 10-6 with REPS. CYR, CARNEY, JACOBSON, LASLOVICH, MENDENHALL, and RASER voting no.

EXECUTIVE ACTION ON HB 583

{Tape: 3; Side: B; Approx. Time Counter: 0- 10}

Motion: REP. OLSON moved that HB 583 DO PASS.

Discussion:

CHAIRMAN NOENNIG explained that this bill concerns transportation authority.

REP. LASLOVICH said that he opposed the bill because this is creating a new level of bureaucracy.

REP. MENDENHALL said that this is a good bill; it provides local control and enables groups of local people to go after funding from a variety of sources.

REP. MORGAN said that this bill creates tax exemption status for property acquired for a Transportation Improvement Authority. She said that Helena really needs this bill. She said that the tax exemption language is found on Page 3, Lines 27-30 of the bill.

REP. FORRESTER asked what the difference was between creating a Transportation District and a Transportation Authority. **Connie Erickson** said that a Transportation District has boundaries. For example, the Transportation Authority in Billings would be created by Yellowstone County and the City of Billings. She said that other municipalities could come into a Transportation Authority. For example, if Laurel came in, the authority would also be operative in Laurel. If an authority was created in Yellowstone County, Lockwood would be part of that.

REP. FORRESTER asked if that would be a duplication of services; i.e., a Transportation District and a Transportation Authority. **Connie Erickson** said that would be taken into consideration.

REP. MENDENHALL referred to Page 1, Lines 25-28 which states that a Transportation Improvement Authority may be increased to serve additional counties or municipalities.

REP. FORRESTER asked if the Transportation "District" has taxing authority. **REP. MENDENHALL** replied that it is similar to a port authority and is like an organization that allows transportation improvement, but it is not a taxing authority and does not have mill levying ability.

CHAIRMAN NOENNIG referred to Page 1, Lines 13-14 and said that the language is permissive and that creation is by joint resolution between the city and the county.

Vote: Motion passed 9-7 with **REPS. CYR, CARNEY, DEVLIN, FORRESTER, JACOBSON, LASLOVICH, and RASER** voting no, on a roll call vote.

EXECUTIVE ACTION ON HB 596

{Tape: 3; Side: B; Approx. Time Counter: 10 - 14.6}

Motion: **REP. MENDENHALL** moved that HB 596 DO PASS.

Connie Erickson said that she has a conceptual amendment on HB 596 that has not been drafted yet. The amendment would say that the question would have to be submitted to the voters.

CHAIRMAN NOENNIG stated that the bill is already permissive.

Connie Erickson said that current law gives the governing body the option to submit the mill levy question to the voters or to approve by vote of the governing body. The amendment would say that the question would have to be submitted to the voters. There is also new language in the bill about when the previous mill was authorized. She said that she needs to be sure that by removing the discretionary mill levy authority from the governing body, that the new language is still workable. She said this amendment was requested by REP. MAEDJE.

REP. MAEDJE said that he understood there is an option in the bill not to bring this question to the voters. **CHAIRMAN NOENNIG** explained that this bill comes in with a permissive levy which means the levy can be raised above the cap. He said, "The issue is, what happens if the bill does not pass?" The question that came up at the hearing was, "Can local governments go ahead and get a vote of the people to get this funded, and can they do it with the approval of the Commission?" He said the answer is probably yes.

REP. MAEDJE said that he may have misunderstood. He thought that this bill gives permission to raise the levy above an existing cap without going to a vote of the people.

CHAIRMAN NOENNIG said, "That can already be done without this bill." He asked **REP. MAEDJE** if he wanted to wait to discuss the bill after the conceptual amendment was drafted.

REP. MAEDJE stated that he did not want to have the conceptual amendment drafted.

REP. MENDENHALL said that this bill just adds layers of bureaucracy that aren't necessary.

Substitute Motion/Vote: **REP. OLSON** made a substitute motion that **HB 596 BE TABLED**. Substitute motion carried 10-6 with **REPS. CARNEY, CYR, FORRESTER, JACOBSON, LASLOVICH, and RASER** voting no.

ADJOURNMENT

Adjournment: 6:20 P.M.

REP. MARK NOENNIG, Chairman

LINDA KEIM, Secretary

MN/LK

EXHIBIT (loh38aad)